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Total Number of Pages in This Submission

24

Application Number	10/783,812
Filing Date	February 20, 2004
First Named Inventor	Barry Gammon
Art Unit	3723
Examiner Name	Hadi Shakeri
Attorney Docket Number	GAM-001CON

ENCLOSURES (Check all that apply)

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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Verrill Dana, LLP		
Signature			
Printed name	Chris A. Caseiro		
Date	January 9, 2006	Reg. No.	34,304

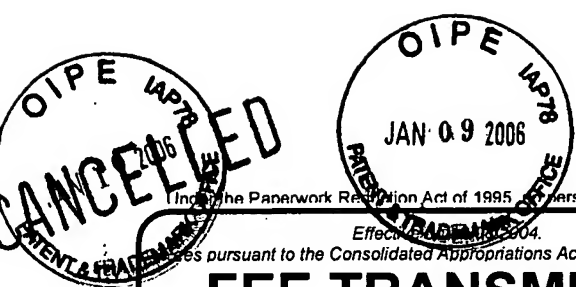
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FEE TRANSMITTAL

For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 250.00

Complete if Known

Application Number	10/783,812
Filing Date	February 20, 2004
First Named Inventor	Barry Gammon
Examiner Name	Hadi Shakeri
Art Unit	3723
Attorney Docket No.	GAM-001CON

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

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☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25

Each independent claim over 3 (including Reissues)

200	100
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Multiple dependent claims

360	180
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Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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_____ - 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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_____ - 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims

Fee (\$)	Fee Paid (\$)
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3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Filing a brief in support of an appeal (small entity)

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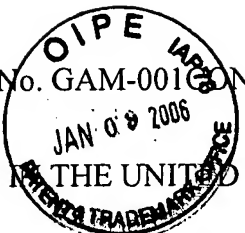
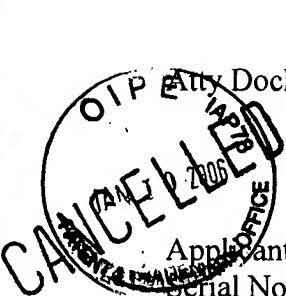
Signature		Registration No. (Attorney/Agent) 34,304	Telephone 207-253-4530
Name (Print/Type)	Chris A. Caseiro		Date January 9, 2006

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Atty Docket No. GAM-00138

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Barry Gammon
Serial No.: 10/783,812
Filed: February 20, 2004
For: SOCKET WITH OFF-CENTER SLOT
Examiner: Hadi Shakeri
Art Unit: 3723

Paper No. 14

APPELLANT'S APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant in the above-referenced application hereby appeals the Examiner's decision regarding the subject matter of the application.

Introduction

The present invention relates to sockets for use in loosening and tightening nuts and washers in difficult to reach locations. Specifically, the present invention relates to devices for loosening and tightening nuts and washers used to connect pipes and tubing to basin faucet connections.

Real Party In Interest

Barry Gammon is the real party in interest.

Related Appeals and Interferences

There are no related appeals known to the Appellant or his legal representative which will directly affect or be directly affected by or have any bearing on the Board's decision in this appeal.

01/12/2006 TBESHAH1 00000003 10783812

01 FC:2402 250.00 OP

01/12/2006 TBESHAH1 00000004 10783812

01 FC:2402 250.00 OP

Status of Claims

Claims 1-14 were presented with this continuation application as filed, and Claims 7-14 were canceled by preliminary Amendment filed February 20, 2004. Thus, Claims 1-6 are presented as amended and being pending and at issue in this appeal. Claim 1 is the sole independent claim. The pending claims on appeal are set out in an appendix to this Appeal Brief (Exhibit A).

Status of Amendments

The Appellant submitted a preliminary Amendment to address the Examiner's remarks made in the parent application of the present application. The parent application was filed February 25, 2003, application serial number 10/374,239, now US Patent No. 6,701,807 issued March 9, 2004. The preliminary Amendment was entered and considered by the Examiner in the Office Action dated July 23, 2004. The six pending claims of the application were rejected in the Office Action. The Appellant filed a Notice of Appeal on September 24, 2004, and filed an Appeal Brief on November 23, 2004. The Examiner did not submit an Answer to the Appellant's November 23, 2004, Appeal Brief, but did issue a non-final Office Action rejecting the six pending claims of the application on January 31, 2005. On April 28, 2005, the Appellant filed a response to the Examiner's January 31, 2005, Office Action. In this response, the Appellant amended Claim 1 and made no other changes to the application. In a final Office Action dated July 21, 2005, the Examiner again rejected the six pending claims of the application. On November 14, 2005, Appellant filed a Notice of Appeal and filed an Amendment, in which Claim 1 again was amended with no other changes being made to the application. In an Advisory Action dated December 8, 2005, the Examiner denied entry of the November 14, 2005, Amendment.

Summary of the Invention

The invention of the pending claims on appeal is directed to a socket. The socket is a socket body having a slot running its length and, within one face, a driver port for receiving a socket driver. The driver port is offset from the centerline of the socket body. The opposing face of the socket body and that portion of the slot adjacent to that face are configured to grab a connector nut to be loosened or tightened. Having a slot through the length of the socket allows

a user to comfortably fit the socket around any tubing or piping that terminates in or passes through the nut to be loosened or tightened. Having the driver port off center of the body but still part of the socket body allows the user to comfortably manipulate the socket at a distance and with leverage. The opposing face of the socket may also include face slots spaced to accommodate the wings of a plastic nut should one have to be loosened or tightened.

A single socket body of the present invention may be configured to accept connector nuts of varied sizes. That capability may be achieved by forming a portion of the slotted space of the socket body with a plurality of stepped regions varying in dimensions that conform to the dimensions of connector nut sizes in use. Alternatively, the socket body may be configured with only one nut-retaining space configuration. A plurality of socket bodies, each with a different slot space configuration, may be assembled in a kit to allow a user to employ separate sockets for differing nut dimensions.

The nut-receiving space is established by forming in the socket body an annulus, the center of which is off the centerline of the socket body. The socket body may be cylindrical or polygonal. A portion of the circumference of the wall of the annulus is removed through the entire length and through the thinner portion of the annulus wall to form a slot therein. The width of the slot is selectable but is of a size sufficient to allow a pipe or tube to pass there through. A nut capturing region is established adjacent to a first face of the socket body. The nut capturing region is formed in the thicker portion of the annulus wall adjacent to that first face. The opposing face of the socket body includes a driver port for receiving a socket driver. The driver port is located in the thicker portion of the annulus wall. (Page 3, paragraphs 7-9 of the application.)

Appellant respectfully submits that the pending claims are fully supported by the original disclosure.

The Issues

1. The Examiner has rejected Claim 1 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention. The Examiner specifically asserts that Claim 1 is indefinite because its term “above” is not adequately set forth or defined. The first issue therefore may be stated as follows:

Does Claim 1 particularly point out and distinctly claim Appellant's invention, thereby satisfying the requirements of 35 USC § 112, second paragraph?

The Appellant respectfully submits that pending Claim 1 particularly points out and distinctly claims his invention, and thereby satisfies the requirements of 35 USC § 112, second paragraph.

2. The Examiner has rejected Claims 1-2 under 35 USC § 102(b) as being anticipated by Johnson (US Patent No. 2,715,347). The Examiner asserts that the socket of Johnson anticipates the socket of the present invention. For this reason, the second issue may be stated as follows:

Is the Appellant's socket as described in Claims 1-2 anticipated by the socket described by Johnson?

The Appellant respectfully submits that the socket of Claims 1-2 is clearly and patentably distinct from the Johnson socket for the reasons stated herein.

3. The Examiner has rejected Claims 3-6 under 35 USC § 103(a) as being unpatentable over Johnson in view of Farnan et al. (US Patent No. Des. 376,521). The Examiner asserts that the socket of Johnson, when combined with the stepped polygonal features of the Farnan socket, renders the socket of Claims 3-6 unpatentable. In addition, the Examiner has rejected Claims 4-5 under 35 USC § 103(a) as being unpatentable over Johnson in view of Makovsky et al. (US Patent No. 5,697,268). The Examiner asserts that the socket of Johnson, when combined with the wing nut slots of the Makovsky socket, renders the socket of Claims 4-5 unpatentable. As the two rejections under 35 USC § 103(a) are based substantially on Johnson, the third issue may be stated as follows:

Is the Appellant's socket as described in Claims 3-6 nonobvious over Johnson in view of Farnan, and as described in Claims 4-5 over Johnson in view of Markovsky?

The Appellant respectfully submits that the socket of Claims 3-6 is clearly and patentably distinct from the combination of Johnson and Farnan and the combination of Johnson and Markovsky for the reasons stated herein.

4. The Examiner has rejected Claims 1-6 under 35 USC § 103(a) as being unpatentable over Higgins (GB Patent No. 2 266 257) in view of Farnan. The Examiner asserts that the socket of Higgins, when combined with the stepped polygonal features of the Farnan socket, renders the socket of Claims 1-6 unpatentable. For this reason, the fourth issue may be stated as follows:

Is the Appellant's socket as described in Claims 1-6 nonobvious over Higgins in view of Farnan?

The Appellant respectfully submits that the socket of Claims 1-6 is clearly and patentably distinct from the combination of Higgins and Farnan for the reasons stated herein.

Grouping of Claims

Claims 1-2 may be considered together with regard to the anticipation and nonobviousness arguments.

Claims 3-6 may be considered together with regard to the nonobviousness arguments.

Arguments

1. In the July 21, 2005, Office Action, Claim 1 is rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the Appellant's invention. The Examiner asserts that Claim 1 is indefinite because its term "above", which is contained in the phrase "wherein the socket driver port is positioned within the perimeter of the socket body and does not extend above the first face," is not adequately set forth or defined. The Examiner's specific argument may be paraphrased as being that the term "above" is indefinite because it is unclear whether the Appellant is using "above" to describe the position of the perimeter of the socket driver port with respect to the face of the socket body *and the earth*, or whether the Appellant is using "above" to describe the position of the perimeter of

the socket driver port with respect to the face of the socket body *alone*, that is without regard to the orientation of the face of the socket body to the earth.

In addition to the Examiner's noted remarks, the Appellant has independently become aware that the socket driver port is disclosed in the Specification of the pending application as actually being accessible from the socket body's second face, and not from its first face. Therefore, the Appellant wished to change Claim 1 to indicate that the socket driver port does not extend beyond the surface of the second face. For reasons presented below, however, the Appellant did not feel that this change needed to be made to place Claim 1 within the bounds of 35 USC § 112, second paragraph. Instead, the Appellant contended, and still contends, that Claim 1 meets the requirements of 35 USC § 112, second paragraph, whether the socket driver port is described as not extending beyond the surface of either the first or second face of the present invention. Appellant respectfully submits this particular description of the socket driver port, which is the description of its position with respect to the first face, does not render Claim 1 indefinite.

To address the § 112 rejection, Appellant made two changes to Claim 1 in the November 14, 2005, Amendment. First, the word "above" was stricken and replaced with the phrase "beyond the surface of." Second, Claim 1 was amended to describe the socket driver port as not extending beyond the surface of the socket body's *second* face. As a result of these changes, Claim 1 in the November 14, 2005, Amendment reads, in relevant part, "wherein the socket driver port is positioned within the perimeter of the socket body and does not extend beyond the surface of the second face." In a December 8, 2005, Advisory Action, the Examiner indicated that substitution of the phrase "beyond the surface of" for the term "above" sufficiently overcame the Examiner's basis for rejection under 35 USC § 112, second paragraph, but further indicated that changing the position of the socket driver port to one which does not extend beyond the surface of the second face of the socket body from one which does not extend beyond the surface of its first face required a new search. For this latter reason only, the Examiner did not enter the November 14, 2005, Amendment.

Appellant's changes made to Claim 1 in the unentered November 14, 2005, Amendment notwithstanding, Claim 1 in its pending form satisfies the requirements of 35 USC § 112, second paragraph. More specifically, even though the socket driver port is described in pending Claim 1 as not extending "above" the first face of the socket body, neither the use of the term "above"

nor the limiting of the positioning of the socket driver port with respect to the first face of the socket body renders Claim 1 indefinite. This is true because: (1) the term “above”, when read in light of Claim 1 in its entirety, has only one reasonable interpretation; and (2) the limiting of the positioning of the socket driver port with respect to the first face, also when viewed in light of the entire Claim, merely restates a limitation already presented in the Claim. Moreover, this restated limitation is fully supported by the Specification.

Again, as alluded to above, support for each of these points is provided elsewhere in Claim 1. In a phrase in Claim 1 which precedes the phrase in question (the phrase in question specifically being the one containing the rejected term “above”), it is stated that the socket body’s “second face includes a socket driver port *therein* that *does not extend through to the first face.*” This “antecedent phrase” has at least two significant effects, each of which has significant bearing upon the phrase in question. First, its term “therein”, as constructively defined in and fully supported by the Specification, limits the socket driver port to a position *entirely within* the second face. This concept specifically is supported by the Drawings of the pending application, wherein the only Figures that depict the socket driver port, namely Figures 1 and 4, show the socket driver port (labeled as element “16” in each Figure) as extending up to and from within, but as not extending beyond, the surface of the second face, and also by the Detailed Description of the pending application, wherein no part of the socket driver port is ever described as being beyond the surface of the second face, and wherein the socket driver port is distinctly described as “remain[ing] within the dimensions of the socket body” (paragraph 24; lines 6-7 of the application) and as not being present “outside of the dimensions or footprint of the socket body itself” (paragraph 26; lines 6-7).

Second, the antecedent phrase’s limitation that the socket driver port “does not extend through to the first face” removes any possibility that the socket driver port may extend from its position within the second face of the socket body to its first face. Therefore, according to the antecedent phrase, not only must the socket driver port reside entirely between the first face and the second face, it also must not break the plane of the first face.

The position of the socket driver port is further limited by the inherent properties of the port itself. Specifically, since the socket driver port is indeed described as being a “port”, it must be thought of as having an opening, and in light of the above-mentioned limitations contained in

the antecedent phrase, that opening only may be present on the socket body's second face, and not on its first face.

In summary, therefore, the combined effects of the antecedent phrase and the inherent qualities of the socket driver port itself are: (1) to limit the socket driver port to only a position that is *entirely* between the first and second faces of the socket body, which is to say that it precludes the possibility that the socket driver port extends beyond the surface of either face, and (2) to limit the socket driver port's opening to the second face of the invention.

Again, these two effects of the antecedent phrase have significant bearing upon the phrase in question. This is true because by distinctly and narrowly limiting the position of the socket driver port with respect to these two elements *without also taking the positions of these two elements with respect to the earth into consideration*, the antecedent phrase effectively removes the possibility that any further limitation of the position of the socket driver port and these elements in Claim 1, such as describing the socket driver port as not extending "above" the first face, would be made, absent clear indication to the contrary, with regard to the position of these elements as they are oriented to the earth. For this reason, Appellant respectfully submits that the Examiner's conclusion that the term "above" is indefinite, which hinges on the Examiner's belief that the meaning of "above" may depend on the orientation of the present invention to the earth, is an erroneous one. In light of all of the above, it therefore may be concluded that the phrase which limits the socket driver port to a position not "above" the first face on the socket body merely restates, and in no way contradicts or further limits, the limitation of the antecedent phrase which precludes the possibility that the socket driver port may "extend through to the first face."

For all of the above reasons, the Appellant respectfully submits that pending Claim 1 meets the requirements of 35 USC § 112, second paragraph, and therefore requests that the Board reverse this rejection.

2. Anticipation

In the July 21, 2005, Office Action Claims 1-2 were rejected under 35 U.S.C. § 102(b) as being anticipated by Johnson. It is stated in the Office Action that:

“Johnson discloses all the limitations, i.e., a socket having a center line (B), first face (bottom face as shown in Figs. 2 and 4), an opposite second face, and a receiving slot extending from the first face towards the second including a receiving region (8) adjacent to the first face (first face separated from the second by web 10) having a center line (A) offset from (B) and includes a step (defined by 10 or 15) against which the connection element rests during rotation of the socket body, and wherein the second face includes a port (13) that does not extend to the first face, having a center line that is not in alignment with the socket body positioned within the perimeter of the socket body.”
(Page 3, paragraph 5, of the Office Action.)

The present invention as described in pending Claim 1 is a socket including a socket body having a centerline and a perimeter, a first face, an opposing second face and a receiving slot extending from the first face to the second face, wherein the receiving slot includes a receiving region adjacent to the first face for receiving and capturing therein the connection element, the receiving region having a centerline that is not in alignment with the centerline of the socket body and includes a step against which the connection element rests during rotation of the socket body, wherein the second face includes a socket driver port therein that does not extend through to the first face of the socket body, the socket driver port having a centerline that is not in alignment with the centerline of the socket body, and wherein the socket driver port is positioned within the perimeter of the socket body.

Johnson does not disclose all of the limitations of the present invention. For one, unlike the present invention, Johnson fails to provide a socket driver port that is part of the socket body. Instead, the driver port of the Johnson wrench is located in the handle-receiving shank of the wrench rather than in the head proper of that wrench. See column 1, line 60, to column 2, line 3, of Johnson in which the head proper or box portion 5 of a bifurcated wrench head is described, and column 2, lines 27-37, in which the handle-receiving shank 12 is separately identified as an extension of the socket head. The positioning of the handle opening with respect to the open end of the box in the Johnson device is inferior to the design of the present invention in at least two ways. First, Johnson’s design does not yield nearly the same mechanical advantage that the design of the present invention provides. By having a driver port that is located within the

perimeter of the socket body, and not at a position adjacent to the socket body, such as where it exists as an appendage in the Johnson device, the present invention enables a user to exert greater torque than does the Johnson device when both devices are used under similar conditions. Second, the Johnson device requires much more space be available to rotate its handle, which extends outwardly from the wrench head, than does the present invention. (See the declaration of Roland L'Heureux, which was previously filed on November 23, 2004, as an attachment to Paper No. 7, attached hereto as Exhibit B.) The oft-encountered problem of having to manipulate a socket assembly within a cramped space stimulated the advent of the present invention. The Appellant specifically contemplated positioning the driver port to within the perimeter of the socket body to reduce the amount of free space needed to manipulate existing socket devices of inferior design, such as the Johnson device which affixes its driver port outside the perimeter of the socket body.

A second limitation of the present invention not disclosed by Johnson also concerns the driver port. The driver port in Johnson is through and through, whereas the driver port of the present invention extends into only one face of the socket body, and not through to the other. See column 2, line 27 to column 2, line 30 of Johnson in which the square transverse opening 13 of the shank 12 is described as extending completely through the shank for receiving a handle. Furthermore, the Johnson arrangement does not allow the receiving region of the wrench head and the driver port to be offset from each other, but instead requires that they be parallel. Conversely, the arrangement of the present invention allows the receiving region of the wrench head and the driver port to be offset from each other. This is advantageous because like moving the driver port to a position within the socket body, positioning the receiving region of the wrench head offset from the driver port allows for greater torque to be applied than can be applied with the Johnson device when both devices are used under similar conditions, and also allows the user to manipulate the invention within cramped confines more freely than the Johnson device. Another benefit of placing the driver offset from the receiving region is that this arrangement effectively minimizes device rotation interference caused by obstructions, which is a problem that the Johnson device is not optimally designed to circumvent.

The Examiner has rejected Claims 1-2 under 35 USC § 102(b) based on an assertion that the patent to Johnson anticipates the present invention. In view of the foregoing arguments, Appellant respectfully requests the Board to reverse this rejection.

3. Nonobviousness: Johnson in view of Farnan and Johnson in view of Makovsky
 - a. Johnson in view of Farnan.

In the July 21, 2005, Office Action, dependent Claims 3-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Farnan. Specifically, the Examiner asserts that it would be obvious to one of ordinary skill in the art to add the stepped polygonal wing slots of the Farnan to the Johnson device. For the reasons set forth above regarding the Johnson reference, Appellant respectfully suggests that the Johnson reference does not apply to the present invention. Appellant also respectfully notes that like Johnson, Farnan fails to show a basin wrench with a driver port as part of the socket body. Instead, like Johnson, Farnan shows the driver port as an attachment to the socket body. Moreover, like the Johnson device, the driver port of Farnan is through and through. Since Johnson and Farnan, when viewed together, do not disclose all of the limitations of the present invention, the Appellant respectfully suggests that the Examiner's rejection of Claims 3-6 under 35 U.S.C. § 103(a) is not valid.

Appellant also notes that nowhere in either Johnson or Farnan is it taught or fairly suggested to modify either wrench described in those references to create a wrench having all of the same limitations of the present invention. The stepped polygonal wing slots of the Farnan patent, which is a Design patent, are shown but are not described in writing. Farnan therefore could not be thought to expressly suggest that its wing slots be added to *any* device, including Johnson's. Furthermore, Johnson teaches away from making any modifications to its wrench head. Lines 36-41 of Column 1 of Johnson describe the "primary object of the present invention" as being, in relevant part, to provide a wrench having a side wall which is "[resistant to] forces tending to spread the open end of the wrench." In that same text, Johnson asserts that these "forces" are resisted specifically by the device's "slotted end wall which provides a continuous tension web". One of ordinary skill in the art therefore could only read Johnson to mean that any modification of its wrench head, including the addition of stepped polygonal wing slots such as Farnan's, would be directly adverse to the "primary object" of its device, which namely is to maintain wrench head integrity. Therefore, for all of the above reasons, even if it is concluded that Johnson and Farnan together disclose all of the limitations of the present invention, the Appellant respectfully suggests that the Examiner's rejection of Claims 3-6 under 35 U.S.C. § 103(a) still would not be valid.

b. Johnson in view of Makovsky.

In the Office Action, Claims 4-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Makovsky. Specifically, the Examiner asserts that it would be obvious to one of ordinary skill in the art to add the wing slots of the Makovsky to the Johnson device. For the reasons set forth above regarding the Johnson reference, Appellant also respectfully notes that Makovsky fails to show a basin wrench with a receiving region and a driver port that are offline from the centerline of the socket body. In Makovsky, the receiving region and driver port are aligned with one another. That arrangement is unsuitable for a socket to be employed to loosen or tighten nuts having obstructions such as tubes or pipes. Indeed, Makovsky teaches away from such an arrangement. The Makovsky device is of an overall compact design such that if the driver port were to be repositioned anywhere but in alignment with the device's receiving region, the device would not work for its intended purpose. Appellant notes that nowhere in either Johnson or Makovsky is it taught or fairly suggested to make such a modification to either of the other wrenches described in those references. Since Johnson and Makovsky, when viewed together, do not disclose all of the limitations of the present invention, the Appellant respectfully suggests that the Examiner's rejection of Claims 4-5 under 35 U.S.C. § 103(a) is not valid.

Additionally, as mentioned above, Johnson teaches away from making any modification to its wrench head, and for this reason, one of ordinary skill in the art would not be inclined to add the wing slots of Makovsky to the Johnson device. Therefore, Appellant respectfully suggests that the Examiner's rejection of Claims 4-5 under 35 U.S.C. § 103(a) still would not be valid.

4. Nonobviousness: Higgins in view of Farnan

In the Office Action, Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Higgins in view of Farnan. It is stated in the Office Action that:

“Higgins meets all the limitations of the claim 1, i.e., a socket having a center line and perimeter, first face and an opposite second face, and a receiving slot extending from the first face towards the second including a receiving region adjacent to the first face having a center line that is not in alignment with the centerline of the socket body (Fig.

1) and wherein the second face includes a port (24) that does not extend to the first face of the socket body, the port having a center line that is not in alignment with the center line of the socket body, except for a step against which the connection element rests during rotation of the socket body. Farnan et al. teaches stepped polygonal configurations having wing slots.” (Pages 4-5, paragraph 9, of the Office Action.)

For the reasons set forth above in Appellant’s argument in response to the Examiner’s rejection of Claims 3-6 under 35 U.S.C. § 103(a) over Johnson in view of Farnan, Appellant suggests that the Farnan reference does not apply to the present invention. Appellant also respectfully notes that combining the receiving region of Higgins with the stepped polygonal wing slots of Farnan not only would serve no discernable purpose, but likely would detract from the utility of the Higgins socket. Higgins therefore teaches away from adding stepped polygonal wing slots. Specifically, all figures in Higgins show a socket body receiving region (which Higgins refers to as a recess 14) having a slender construction. In the Figures that show the receiving region holding a nut, which are namely Figs. 1, 2 and 4, the thickness of the receiving region is shown to be considerably smaller than the thickness of the nut itself. Furthermore, the socket body containing the receiving region of the Higgins device is referred to as being a “*flat leaf*” (emphasis added; Page 3, line 4). Nowhere does Higgins state or even suggest that its socket body, and therefore its receiving region, be anything other than, and therefore any thicker than, a “flat leaf”. Based on the slender design of the receiving region of the Higgins device, it is clear that it is not meant to accommodate multiple stepped polygonal wing slots. This is true because any such slots added to the Higgins device would have to be very narrow to fit within the slender face of the receiving region, and therefore would be too small to grip a nut effectively. Slots of this narrow size also would likely be prone to progressive wear, which would thereby cause the receiving region to slowly expand from use-to-use.

Furthermore, Higgins teaches away from having a polygonal configuration. Higgins specifically states that its receiving region (which it refers to as a recess 14) “has two *parallel* sides.” (Emphasis added. Page 3, lines 12-13). Since it is unlikely that Higgins limited the receiving region of his device to having parallel sides, and therefore to not include polygonal

configurations, without reason, it logically follows that Higgins believes that his device does not work for its intended purpose unless these sides are parallel.

Additionally, Higgins and Farnan, when viewed together, do not disclose all of the same limitations of the present invention. Specifically, unlike the present invention, the receiving region and driver port of the Higgins device are aligned with one another. As mentioned above, that arrangement is unsuitable for when a socket is needed to be used in tight spaces or to be used to loosen or tighten nuts having obstructions, and that arrangement also does not provide mechanical benefit comparable to that which is provided by the present invention.

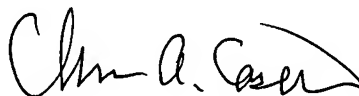
Higgins also does not apply to the present invention because, unlike the present invention, the socket driver port of Higgins extends beyond the face of the socket body. One useful feature of the present invention is that its driver port is contained within, and therefore does not extend beyond the surface of, the face of the socket body which faces the socket. This arrangement of the present invention allows the socket wrench, which houses the driver, to remain in contact with a larger surface area of the socket body than is allowed by the Higgins device. The present invention therefore permits a better connection to be made between socket wrench driver and the socket port than does the Higgins device. This improved connection permits the user to maintain a more secure grip, relative to that afforded by the Higgins Device, on the nut being turned.

In view of the foregoing arguments, Appellant respectfully requests the Board to reverse the Examiner's 35 USC § 103(a) rejection of Claims 1-6.

Summary

In summary, the Appellant submits that all claims in his application particularly point out and distinctly claim his invention, and that his invention is novel and nonobvious over the prior art cited by the Examiner. The prior art does not fairly teach or suggest a socket having all of the limitations of the present invention. For the reasons stated herein, it is submitted that the Examiner's rejections of the pending claims are in error and should be reversed by the Board.

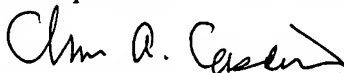
Respectfully submitted,



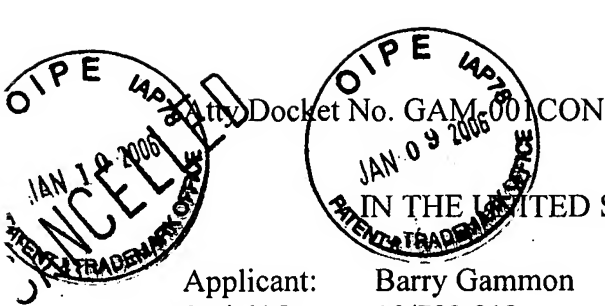
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I hereby certify that this correspondence is being transmitted to Mail Stop Appeal Brief - Patents, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on January 9, 2006, in an envelope deposited with the United States Postal Service using the Express Mail service pursuant to 37 C.F.R. § 1.10(a), Express Mail label no. EQ073072312US.



Chris A. Caseiro



Docket No. GAM-001 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Barry Gammon
Serial No.: 10/783,812
Filed: February 20, 2004
For: SOCKET WITH OFF-CENTER SLOT
Examiner: Hadi Shakeri
Art Unit: 3723

Attachment to Paper No. 14

EXHIBIT A TO APPELLANT'S APPEAL BRIEF

PENDING CLAIMS SUBJECT OF THE APPEAL:

1. A socket for rotatably loosening or tightening a connection element, the socket comprising a socket body having a centerline and a perimeter, a first face, an opposing second face and a receiving slot extending from the first face to the second face, wherein the receiving slot includes a receiving region adjacent to the first face for receiving and capturing therein the connection element, the receiving region having a centerline that is not in alignment with the centerline of the socket body and includes a step against which the connection element rests during rotation of the socket body, wherein the second face includes a socket driver port therein that does not extend through to the first face of the socket body, the socket driver port having a centerline that is not in alignment with the centerline of the socket body, and wherein the socket driver port is positioned within the perimeter of the socket body and does not extend above the first face.
2. The socket as claimed in Claim 1 wherein the receiving region of the receiving slot is of a polygonal configuration.
3. The socket as claimed in Claim 1 wherein the receiving region of the receiving slot includes a plurality of stepped polygonal configurations.
4. The socket as claimed in Claim 1 wherein the connection element is a nut with wings, said first face of the socket body including a plurality of wing slots for receiving and retaining the wings therein.

5. The socket as claimed in Claim 4 wherein the receiving region is of a rounded configuration.
6. The socket as claimed in Claim 4 wherein the receiving region is of a polygonal configuration.

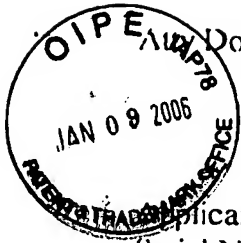
Any Docket GAM-001CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Barry Gammon
Serial No.: 10/783,812
Filed: February 20, 2004
For: SOCKET WITH OFF-CENTER SLOT
Examiner: Hadi Shakeri
Art Unit: 3723

Attachment to Paper No. 14

EXHIBIT B TO APPELLANT'S APPEAL BRIEF



Docket No. GAM-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Barry Gammon
Serial No.: 10/374,239
Filed: February 25, 2003
For: SOCKET WITH OFF-CENTER SLOT
Examiner: Hadi Shakeri
Art Unit: 3723

Confirmation No. 4527

Paper No. 7

STATEMENT OF ROLAND L'HEUREUX UNDER 37 CFR § 1.132

Mail Stop Non-Fee Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. My name is Roland L'Heureux. I reside in Kennebunk, Maine.
2. I have been a plumber for approximately 40 years.
3. I have been a member of the National Plumbers Association since the middle 1970's.
4. I have been a member of the Maine State Plumbers Association since the middle 1970's, serving as its president, convention chairman, and legislative chairman.
5. In 1971, I purchased Pillsbury Plumbing and Heating of Kennebunk, Maine, renamed Pillsbury Home Improvement Center approximately two years ago. I am the owner of Pillsbury Home Improvement Center and am involved in the day-to-day operation of the business.
6. Among other products, my company offers for sale many forms of plumbing parts and fixtures, including basin wrenches. In addition, I employ plumbers to install and remove such parts and fixtures for customers.
7. In the course of my responsibilities as proprietor of Pillsbury Home Improvement Center, I have had and continue to have the opportunity to observe, evaluate many plumbing parts and fixtures, including basin wrenches. My plumbing employees have also had the opportunity to do so. My evaluations are used to determine whether to stock such products in my store. My evaluations are based on prior actual experiences with products similar to the Basin Buddy™ socket offered by Barry Gammon, the applicant in the above-captioned application and my

knowledge of prior similar products. My evaluations are also made based on statements made by my plumbing employees who use, or who may have an interest in using, such products.

8. In my years as a plumber and a plumbing parts and fixtures supplier, I have had the opportunity to attend many trade shows and conventions at which plumbing tools were displayed, including basin wrenches.

9. I recently had the opportunity to inspect the Basin Buddy™ socket offered by Barry Gammon, the applicant in the above-captioned application. I have also had the opportunity to review the patent application, including the drawings and the claims. The Basin Buddy™ socket that I inspected is the same device as described in the patent application that I reviewed and, in particular, it appears to be the same device shown in FIGS. 2 and 3 of the patent application. The Basin Buddy™ socket is clearly designed to rotatably loosen or tighten a connection element, such as a basin nut. The Basin Buddy™ socket is a single body having a centerline, a first face, an opposing second face and a receiving slot extending from the first face to the second face. The receiving slot includes a receiving region adjacent to the first face for receiving and capturing the nut. The receiving region has a centerline that is offline from the centerline of the socket body and includes a step against which the nut rests during rotation of the socket body. The second face includes a socket driver port therein that does not extend through to the first face of the socket body, and the socket driver port has a centerline that is offline from the centerline of the socket body.

10. In all my years of experience as a plumber and as a supplier of all sorts of plumbing parts and fixtures, I have never observed a device designed in the manner of the Basin Buddy™ socket. I have observed and used many wrenches intended for use as a means to loosen or tighten a basin nut positioned under a basin. They all have been of limited use for a variety of reasons. One limitation is that the opening where the wrench contacts the nut is centered on the body of the wrench. That design makes it very difficult to rotate the wrench effectively because of the alignment of the tube or pipe to be installed or removed with the connecting nut. Another limitation is that the receiving head fails to capture the nut completely, resulting in slippage of the tool off the nut during rotation, especially for nuts in hard-to-reach places.

11. It has been a longstanding problem in the field of plumbing to be able to loosen basin nuts that have been in place for a long period of time. In particular, they tend to rust in place. All prior basin wrenches that have been used in the plumbing field to remove such basin nuts

have met with limited success. In reality, they involve much more of the plumber's time than is desired, they force the plumber into awkward positions under the basin, and they can cause injury due to considerable exertion to force the loosening. Therefore, there has been a long-felt need for a better basin wrench.

12. Mr. Gammon's Basin Buddy™ socket appears to be the first device that I have ever seen that addresses all of the problems described above. It appears that having the receiving slot offline from the center of the socket body and the driver port offline from that socket body center provides maximum mechanical advantage without alignment on the tube or pipe to be installed or removed. Discussions that I have had with other plumbers who have used the Basin Buddy™ socket lead me to believe that they have not seen or used a device of the same or similar design that solves the longstanding problem of accessing and being able to loosen a basin nut that has been in place for a considerable amount of time.

13. Mr. Gammon also provided me with the opportunity to review the box wrench described in US Patent No. 2,715,347 issued to Johnson. He asked me to consider the Johnson wrench in comparison to the prior wrench limitations mentioned above and in light of Mr. Gammon's Basin Buddy™ socket. It is clear to me, and based on my experience as a plumber and as a plumbing parts and fixtures supplier, that the Johnson box wrench has the same limitations as prior wrenches and is substantially different from the Basin Buddy™ socket. First, the Johnson wrench does not have the socket driver port as part of the socket head. Instead, it is adjacent to it. For that reason, the Johnson wrench cannot produce the sort of mechanical advantage that the Basin Buddy™ socket, which has the driver port on the socket body, does. Second, the driver arrangement of the Johnson wrench appears to require a considerable amount of room for the plumber to cause its rotation. In particular, FIGS. 1 and 2 of the Johnson patent appear to show that the handle extension extends perpendicular from the handle-receiving shank and must therefore require rotation in a very wide arc centered on the socket head. That may provide the necessary mechanical advantage that is lost by placing the driver port off from the socket head. On the other hand, the Basin Buddy™ socket does not require a wide-arc rotation but nevertheless provides adequate mechanical advantage to perform its intended function, particularly in regard to basin nuts.

14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these

statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 USC 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued.

By:

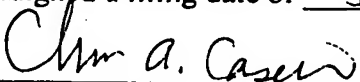

Roland L'Heureux

Date:

9/8/03

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I hereby certify that this correspondence is being deposited with the US Postal Service in an envelope with sufficient postage as first class mail and addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on September 11, 2003. It is hereby requested that this correspondence be assigned a filing date of September 11, 2003.


Chris A. Caseiro